

COMMONWEALTH OF MASSACHUSETTS

COURT DEPARTMENT

_____, SS.

Docket No. _____ DIVISION

In re: Commitment of
JOHN DOE

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MOTION TO TAKE EXPERT WITNESS
ON VOIR DIRE EXAMINATION

Now comes RESPONDENT, John Doe, and moves this Honorable Court to permit the voir dire examination of Dr. Sally Smith as to the bases of her opinions, prior to the offering thereof, concerning (i) RESPONDENT'S mental status, (ii) the likelihood of serious harm should RESPONDENT be discharged, (iii) the need to confine RESPONDENT at a psychiatric facility, (iv) the need for the strict security of Bridgewater State Hospital (v) RESPONDENT'S ability to knowingly, intelligently and voluntarily waive any privilege(s) that may obtain, and (vi) RESPONDENT'S ability to provide informed consent to treatment with antipsychotic medication.

As reasons therefor, RESPONDENT asserts that:

1. All such opinions are based, in whole or in substantial part, upon information which is privileged or otherwise inadmissible in the instant action and that, therefore, such opinions are themselves inadmissible. D.Y.S. v. A Juvenile, 398 Mass. 516 (1986).
2. Voir dire examination for this purpose has been expressly authorized by the Supreme Judicial Court. D.Y.S. v. A Juvenile, 398 Mass at 532.

3. The taint upon RESPONDENT'S defense resulting from the admission of such opinions through direct examination will be so highly prejudicial as to negate the effect of RESPONDENT'S cross examination and render such cross examination meaningless.
4. Voir dire examination prior to the offering of such opinions will not in any manner prejudice PETITIONER'S case.